

REMARKS

The Office Action of October 9, 2007 has been received and its contents carefully noted. Upon entry of the present Amendment, claims 1, 6, 9, and 16 will have been amended to more clearly define the claimed subject matter. In addition, claims 5 and 10 will have been canceled without prejudice or disclaimer. Applicants submit that no new matter is added with these amendments. Accordingly, claims 1-4, 6-9, and 11-16 are currently pending in the application, of which claims 1, 9, and 16 are independent claims.

Applicants respectfully submit that the above amendments do not add new matter and are fully supported by the specification. In view of the above amendments and the following remarks, Applicants respectfully request reconsideration and timely withdrawal of the pending rejections for at least the reasons discussed below.

Applicants respectfully traverse each of the four separate grounds of rejection provided in the outstanding Office Action. In particular, Applicants traverse each of the following rejections: (1) the rejection of claims 8, 15, and 16 under 35 U.S.C. §112, second paragraph, for insufficient antecedent basis for the term "instrument access opening;" (2) the rejection of claims 1-3 and 5-16 under 35 U.S.C. §102(e) as anticipated by U.S. Patent No. 5,752,938 issued to Flatland et al. ("FLATLAND"); (3) the rejection of claims 1 and 4 under 35 U.S.C. 102(b) as anticipated by U.S. Patent No. 5,603,702 issued to Smith et al. ("SMITH"); and (4) the rejection of claims 1-16 for obviousness-type double patenting over U.S. Patent No. 6,258,065. Applicants submit that FLATLAND and/or SMITH, whether taken alone or in any proper combination, do not disclose or render obvious each and every element of the invention set forth in any of the currently pending claims, for at least the following reasons.

Rejection of Claims under 35 U.S.C. §112, second paragraph

Applicants respectfully traverse the rejection of claims 8, 15 and 16 under 35 U.S.C. §112, second paragraph for insufficient antecedent basis. Applicants respectfully traverse this rejection for at least the following reasons.

For example, Applicants wish to respectfully note that the language cited by the Examiner, "instrument access opening," is not present in any of claims 8, 15, or 16. Claim 8 contains the language "instrument seal opening" on line 5 of the claim and "access opening" on line 6. Applicants respectfully submit that there is sufficient antecedent basis for these terms. "Access opening," e.g., is defined on lines 2 and 3 of claim 8, and "instrument seal opening" is defined, e.g., on lines 18, 19, and 20 of claim 1 (from which claim 8 depends).

Further, claim 15 contains the language "instrument seal opening" and "access opening" on line 5 of the claim. Applicants respectfully submit that there is sufficient antecedent basis for these terms. "Access opening," e.g., is defined on lines 1 and 2 of claim 15, and "instrument seal opening" is defined, e.g., on lines 8, 9, and 10 of claim 9 (from which claim 15 depends).

Furthermore, claim 16 contains the language "instrument seal opening" on lines 11 and 14 of the claim and "access opening" on line 15. Applicants respectfully submit that there is sufficient antecedent basis for these terms. "Access opening," e.g., is defined on lines 4, 5 and 6 of claim 16, and "instrument seal opening" is defined, e.g., on lines 9, 10, and 11 of claim 16.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. §112, second paragraph, rejection of claims 8, 15, and 16.

Rejection of Claims under 35 U.S.C. §102(e)

Applicants respectfully traverse the 35 U.S.C. §102(e) rejection of claims 1-3 and 5-16 as allegedly anticipated by FLATLAND. In this regard, FLATLAND does not disclose or render obvious, *inter alia*, the following: a lower sealing member that has a lower seal wall having an

inner wall portion, an outer wall portion, and a reinforcing layer being disposed intermediate the inner wall portion and the outer wall portion, as set forth, e.g., in independent claim 1, independent claim 9, or independent claim 16 as amended.

A claim may be properly rejected under 35 U.S.C. § 102(e) if, and only if, a single prior art reference discloses each and every feature of the invention as recited in the claim. If the rejected claim recites even one feature that is not disclosed by the prior art reference, the 35 U.S.C. § 102(e) rejection is improper and must be withdrawn. In this case, the rejection of claims 1-3 and 5-16 must be withdrawn because FLATLAND fails to disclose at least one feature recited in each of independent base claims 1, 9, and 16.

For example, FLATLAND fails to disclose a lower sealing member that has a lower seal wall having an inner wall portion, an outer wall portion, and a reinforcing layer being disposed intermediate the inner wall portion and the outer wall portion, as set forth, e.g., in independent claim 1, independent claim 9, or independent claim 16 as amended. Rather, FLATLAND discloses a guide integrally bonded to the upper surface of the membrane (see, e.g., column 6 lines 8-18).

Accordingly, since FLATLAND does not disclose each and every element recited in, e.g., independent claims 1, 9, or 16, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 1, 9, and 16 based on FLATLAND in the next official communication. Further, because claims 10-15 depend from independent claim 9 and are therefore patentable for at least the reasons discussed above with regard to independent claims 1, 9, and 16 as well as for reasons related to their own recitations, Applicants respectfully request reconsideration and withdrawal of the rejection of dependent claims 10-15 based on FLATLAND in the next official communication.

Rejection of Claims under 35 U.S.C. §102(b)

Applicants respectfully traverse the 35 U.S.C. §102(b) rejection of claims 1 and 4 as allegedly anticipated by SMITH. In this regard, SMITH does not disclose or render obvious, *inter alia*, the following: a lower sealing member that has a lower seal wall having an inner wall portion, an outer wall portion, and a reinforcing layer being disposed intermediate the inner wall portion and the outer wall portion, as set forth, e.g., in independent claim 1.

A claim may be properly rejected under 35 U.S.C. § 102(b) if, and only if, a single prior art reference discloses each and every feature of the invention as recited in the claim. If the rejected claim recites even one feature that is not disclosed by the prior art reference, the 35 U.S.C. § 102(b) rejection is improper and must be withdrawn. In this case, the rejection of claims 1 and 4 must be withdrawn because SMITH fails to disclose at least one feature recited in independent base claim 1.

For example, SMITH fails to disclose a lower sealing member that has a lower seal wall having an inner wall portion, an outer wall portion, and a reinforcing layer being disposed intermediate the inner wall portion and the outer wall portion, as set forth, e.g., in independent claim 1. Rather, SMITH discloses a guard mount that includes an annular base portion and a plurality of guard elements (see, e.g., column 6 lines 50-62).

Accordingly, since SMITH does not disclose each and every element recited in, e.g., independent claim 1, Applicants respectfully request reconsideration and withdrawal of the rejection of claim 1 based on SMITH in the next official communication. Further, because claims 2-8 depend from independent claim 1 and are therefore patentable for at least the reasons discussed above with regard to independent claim 1 as well as for reasons related to their own recitations, Applicants respectfully request reconsideration and withdrawal of the rejection of dependent claims 2, 3, and 5-8 based on FLATLAND and dependent claim 4 based on SMITH in the next official communication.

Double Patenting

Applicants respectfully traverse the rejection of claims 1-16 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 14-19 of U.S. Patent No. 6,258,065 for at least the following reasons.

Applicants herewith submits a Terminal Disclaimer, attached hereafter, and agrees that any patent granted on the present application shall be enforceable only for and during such period that it and U.S. Patent No. 6,258,065 are commonly owned.

Accordingly, Applicants respectfully request reconsideration and withdrawal of the double patenting rejection of claims 1-27.

CONCLUSION

Applicants submit that a full and complete response has been made to the pending Office Action and respectfully submit that all of the stated grounds for rejection have been overcome or rendered moot. Accordingly, Applicants respectfully submit that all pending claims are patentably distinct from the prior art of record and are in condition for allowance. The Examiner is thus respectfully requested to pass the above application to issue.

Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact the Applicants' undersigned representative at the number below to expedite prosecution. Prompt and favorable consideration of this Reply is respectfully requested. Applicants respectfully request that a timely Notice of Allowance be issued for this application.

Respectfully Submitted,



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